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DECISION



20707

THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548

FILE: B-206114

DATE: February 3, 1982

MATTER OF: Easco-Sparcatron, Inc.

DIGEST:

Protest filed with GAO more than 10 working days after protester had actual knowledge of initial adverse agency action on its protest to agency, receipt of proposals by agency without action on protest, is untimely filed and is not for consideration on the merits.

Easco-Sparcatron, Inc. (Easco), has protested against request for proposals (RFP) No. NO0406-82-R-2321 issued by the Department of the Navy, Naval Supply Systems Command (Navy), for electric discharge machines, Charmilles Corp. of America Model E200/EG50, or equal. The RFP was issued on December 2, 1981. The closing date for receipt of proposals was December 29, 1981.

On December 23, 1981, Easco protested to the Navy, questioning the Navy's justification for the required tolerances, which Easco noted were closer than the industry standard. In addition, Easco objected to the Navy specifying a specific brand name machine. Easco subsequently filed its protest with our Office on January 18, 1982.

Our Bid Protest Procedures, 4 C.F.R. § 21.2(a) and (b)(1) (1981), require that protests based on alleged improprieties in a solicitation which are apparent, as here, prior to the closing date for receipt of proposals shall be filed with the agency or our Office prior to the closing date. Furthermore, our Procedures provide that if a protest is initially filed with the agency, in order for any subsequent

protest to our Office to be considered, it must be filed within 10 working days of actual or constructive knowledge of initial adverse agency action. See 4 C.F.R. § 21.2(a) (1981).

On December 29, 1981, Easco had actual knowledge of initial adverse agency action because the closing date for receipt of proposals was not extended and the procurement was continuing notwithstanding Easco's protest. The protest filed with our Office on January 18, 1982, was filed more than 10 working days later. Consequently, the protest is untimely and not for consideration on the merits.

Easco's protest is dismissed.

Harry R. Van Cleve
Harry R. Van Cleve
Acting General Counsel